

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-v-

KEVIN ST. HILL,

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MEMORANDUM AND ORDER
Case No. 18-cr-00185 (FB)

Appearances:

For the Defendant:

SALLY J.M. BUTLER
42-40 Bell Boulevard, Suite 302
Bayside, NY 11361

For the Government:

MARGARET E. GANDY
U.S. Attorney's Office, E.D.N.Y.
271 Cadman Plaza East
Brooklyn, NY 11201

BLOCK, Senior District Judge:

Kevin St. Hill is presently detained at Brooklyn's Metropolitan Detention Center awaiting sentencing. On June 19, 2019, St. Hill pleaded guilty to one count of conspiracy to distribute heroin and cocaine base in violation of 21 U.S.C. §841(b)(1)(A), §841(b)(1)(C), and §846. Sentencing is scheduled for June 19, 2020.

St. Hill moves for "release[] for the duration of the coronavirus outbreak." St. Hill Emergency Mot. at 8. After careful review and for the following reasons, St. Hill's motion for temporary release is denied.

* * *

At sentencing, St. Hill faces a mandatory minimum sentence of five years and a maximum sentence of forty years of imprisonment. Because he can be sentenced to more than ten years, St. Hill is subject to mandatory detention, absent an

applicable exemption. *See* 18 U.S.C. § 3143(a)(2).¹ Neither §3143(a)(2) exemption applies; therefore, the only ground for St Hill’s temporarily release is the exceptional circumstances exemption under 18 U.S.C. § 3145(c). Pursuant to this § 3145(c) exemption, a person detained under § 3143(a)(2) may be released if he demonstrates: (1) “by clear and convincing evidence[,] that [he] is not likely to flee or pose a danger to the safety of any other person or the community if released”; and (2) “there are exceptional reasons why [his] detention would not be appropriate.”

St Hill posits his proposed release conditions will reasonably assure the Court that he would not flee or pose a danger to the community. He proposes living with his sister, with GPS monitoring, and having four individuals sign a significant bond.²

He further states that he has diabetes and this diagnosis, given the on-going COVID-19 pandemic, is an exceptional reason for his temporary release. Even if St. Hill has diabetes, he is in good health and does not suffer from any respiratory issues.

¹ § 3143(a)(2) exempts a defendant when there is a “substantial likelihood that a motion for acquittal or new trial will be granted,” or when “the Government has recommended that no sentence of imprisonment be imposed.” St. Hill pleaded guilty and is subject to a five-year minimum mandatory sentence.

² St. Hill argues that the MDC’s interference with his ability to consult counsel warrants release. The Court is sympathetic to this argument; however, given the ongoing pandemic, this is not grounds for release. *See U.S. v. Landji*, No. 18 CR 601, 2020 WL 1674070, at *6 (S.D.N.Y. Apr. 5, 2020)(“Although the Court is concerned about [] access to counsel, it cannot find that BOP’s decision to suspend all legal visits for 30 days is unreasonable in light of the global pandemic”).

In any event, the Court possesses only one record, the Presentence Investigation Report (“PSR”), that discusses St. Hill’s medical conditions. The PSR indicates that he has “high cholesterol and pre-diabetes” which do not require medication. St. Hill has not submitted records in variance with the PSR.

Notably, pre-diabetes is not a condition that places individuals at higher risk for serious illness if COVID-19 is contracted.³ And, St. Hill is not included on the list of inmates at the MDC designated as “high risk.”

The Bureau of Prisons is taking system-wide precautions to mitigate the spread of infection within its facilities.⁴ As far as the Court has been made aware, St. Hill has not come into direct contact with anyone who has tested positive for the virus nor has St. Hill been tested for the virus himself.

* * *

The Court takes very seriously the ongoing public health crisis. However, Pretrial Services recommends St. Hill remain in detention based on his “history of failure to appear, prior arrests, and convictions for violent offenses and weapons use/possession, recidivism while under court-ordered supervision, infractions incurred during incarceration, and criminal affiliation with violent street gangs.”

³ CDC, Groups at Higher Risk for Serious Illness (Apr. 2, 2020), www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html

⁴ As of April 9, 2020, 3 inmates at MDC have tested positive for COVID-19.

Dkt. #279. Given the danger to the community and the relative good health of the defendant, the motion for temporary release is denied.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
April 10, 2020